

REMARKS

The office action of May 18, 2004, has been carefully considered.

It is noted that claims 1-29 are rejected under 35 U.S.C. 103(a) over the Patent to Ohlin in view of the patent to Harris et al.

It is respectfully submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

Independent claim 1 currently on file defines an analyzer system comprising

- a) a vertical guide,
- b) an instrument holder
- c) constrained to move along the vertical guide and
- d) designed to hold at least two instruments,
- e) at least one washing device for the instruments,
- f) the washing device having at least one jet orifice
- g) designed to spray the wash fluid at the instruments,
- h) the washing device comprises at least one wash ring

surrounding the instruments,

- i) the washing device being separate from and movable in relation to the instrument holder, and
- j) the at least one jet orifice being aimed in an inward radial direction of the at least one wash ring.

Turning now to the references and particularly to the patent to Ohlin, it can be seen that this patent discloses a device for cleaning the exterior of an elongated body. The Ohlin analysis device has the features a, b, e and I, as well as, with limitations, h. The washing arrangement surrounds the cylindrical portion of the analysis device, but does not contain a wash ring. The instrument holder is not constrained to move along a vertical guide, but instead can also move in a pivoting manner which is necessary to take up and give off the probe in different vessels (see col. 2, lines 27-51 of Ohlin). Additionally, Ohlin does not teach the feature c listed above. Furthermore, Ohlin does not disclose or suggest the features d, f, g and j mentioned above.

The Examiner in her rejection refers to "instruments" and "transfer instruments", however, applicant can find nothing in the teachings of Ohlin that refers to plural instruments being cleaned. Ohlin only discloses a single instrument in the holder.

In claim 1 of the present application the instrument holder is configured to hold at least two instruments. Ohlin only teaches a device that can hold one instrument. The present invention recites a washing device configured to wash the at least two instruments. Ohlin has no teaching of a washing device capable of washing two instruments. The Examiner on page 3 of the Office Action states "Presumably, a drive mechanism allows the instrument and/or wash device to be movable." This is pure speculation on the Examiner's part and finds no support in the teachings of Ohlin whatsoever. Also, there is no suggestion that the housing could or should serve as a constraint to limit the movement of the vertical post, as suggested by the Examiner.

The washing device of the presently claimed invention has at least one jet orifice aimed in an inward radial direction to spray wash fluid at the instruments. Ohlin only describes a cleaning device 24 in which the wash fluid flows through a collar 25 to a ring-shaped space 27 between the vertical bore 26 and the instrument 19, and from there is sucked out through a passage 30 and the conduit 29. Ohlin provides no teaching concerning a jet.

Thus, Ohlin does not teach a wash jet, does not teach a holder for at least two instruments, does not teach constraining

the instrument holder to move along the vertical guide, does not teach a wash ring, and does not teach any components that are combined with the wash ring and the wash jets.

Ohlin gives no suggestion for a device that can simultaneously hold two instruments for washing where all the contaminated wash liquid runs into a vessel specifically provided for that purpose. The washing in Ohlin takes place by the circulation of the wash liquid that is maintained in motion by vacuum. The washing device of Ohlin only functions with cylindrical instruments that are moved along their longitudinal axes. Additionally, by moving the washing device the wash liquid could flow over the funnel edge. Search as one might there is no teaching in the Ohlin reference of a washing device that can hold and clean two instruments at the same time. Simply placing two smaller instruments in the ring as suggested by the Examiner would not work. The collar 25 is shaped to have an annular space 27 that is coaxial to the instrument tube 19. This corresponding circular shape allows the device to function without the majority of the washing fluid leaking into the tube 15. If two smaller tubes 19 were placed in the annular space 27 there would be non-uniform distances between the inner wall of the space 27 and the outer surfaces of the two tubes which would result in a non-uniform

suction around the tubes. This in turn would result in the washing fluid not being drawn into the tube 29. Therefore, the Ohlin device is not suited for cleaning two instruments at the same time.

The patent Harris et al. discloses an automated patient sample analysis instrument having tubes and reaction wells washing apparatus. This patent is completely different from the present invention. In Harris et al. the samples are analyzed on a microtiter plate. The washing device serves to wash the microtiter plates or the wells in the plates. These are washed by a row of jets at the same time. This device has the features a, b, c, f and i listed earlier in this amendment. However, the wash device has nothing to do with the instrument holder or the vertical guide. The wash device also does not deal with washing the instrument. Thus, Harris et al. only teach washing with 8 parallel jets. They do not teach features d, e, g, h and j.

The Examiner combined these references in determining that claims 1-29 would be unpatentable over such a combination. Applicant respectfully submits that neither of these references, nor their combination, teach an analyzer system having the features d, g and j listed above. Furthermore, Harris et al. do

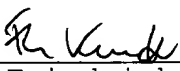
not teach using jets for washing an instrument, let alone two instruments. Furthermore, there is no motivation provided by either of these references for replacing the vacuum circulation system of Ohlin with a jet system of Harris et al. To make such a change would completely alter the operating principles on which Ohlin is based and would not be obvious. Thus, it is respectfully submitted that the references do not teach or suggest the invention recited in the claims and discussed above.

In view of these considerations it is respectfully submitted that the rejection of claims 1-29 under 35 U.S.C. 103(a) over a combination of the above-discussed references is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

By   
Friedrich Kueffner  
Reg. No. 29,482  
317 Madison Avenue, Suite 910  
New York, New York 10017  
(212) 986-3114

Dated: August 18, 2004

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on August 18, 2004.

By:   
Friedrich Kueffner

Date: August 18, 2004